



STAFF REPORT

APPEAL OF THE PLANNING COMMISSION DECISION TO DENY A SETBACK VARIANCE AND SINGLE FAMILY DESIGN REVIEW FOR A NEW SINGLE FAMILY DWELLING AT 905 SOUTH ROAD

Honorable Mayor and Council members:

SUMMARY

On July 20, 2004, by a 5-2 vote, the Planning Commission adopted Resolution 2004-36 denying a Setback Variance and Single Family Design Review to allow construction of a new 3,054 square foot residence, including a driveway bridge / deck that would encroach nine feet into the required fifteen foot front yard setback at the property at 905 South Road. The Commission reviewed the project over several meetings and at the hearing of May 4, 2004 voted 4-3 on the Variance and 5-2 on the Single Family Design Review to direct staff to prepare a resolution outlining the specific findings for denial made by the Commission based on discussion at that 5/4/04 meeting.

On July 30, 2004, Mr. Simmie Graves, Jr., project applicant, submitted an appeal of the Planning Commission decision. Planning Commission meeting minutes and transcripts are attached, and a public hearing has been noticed for this appeal.

PROJECT DESCRIPTION

The proposed two-story residence includes a 1,527 square foot first floor consisting of the main entry, dining room, office, family room, kitchen, one bathroom, and the two-car garage (20 x 20 interior dimensions). The 1,527 square foot lower level consists of three bedrooms, one bathroom, a utility room, laundry room, and an exercise room below the garage. The residence is proposed on a vacant down slope lot with an average slope of approximately 42%. There is no record of previous development on the site.

The project also includes a driveway bridge / deck from the South Road street frontage to the proposed two car garage. The bridge is located within the required 15-foot front yard setback and

a Variance requested to allow this encroachment. A more complete description of the project is contained below and in the attached Planning Commission staff reports.

BACKGROUND

Project Data

Criteria	Existing	Proposed	Required or Max. Allowed
Lot Size	11,108 sq. ft.	No Change	No Change
Slope	42%	No Change	No Change
FAR	None	0.275	0.283
Square Footage	None	3, 054 sq. ft.	3,144 sq. ft.
Parking	None	Two-car garage, Plus 2 uncovered	Two-car garage, Plus 2 uncovered
Setbacks:			
Front	None	19 ft. Driveway Bridge: 6 ft.	15 ft. *
Side (right)	None	18 ft.	7.5 ft.
Side (left)	None	26 ft.	7.5 ft.
Rear	None	28 ft.	15 ft.
Driveway length	None	19 ft.	18 ft.
Height	None	28 ft.	28 ft.

* As there is only one other developed property on this side of the street for this portion of South Road, the proposed front yard setback, as per Section 9.7.4 (setback averaging), does not apply for this property.

CODE COMPLIANCE

The subject lot is below the minimum zoning standards of 6,000 square feet for the R-1B zoning district. With the exception of the driveway bridge, the project complies with the development standards of the R-1B zoning district. A Variance is requested to reduce the required front yard setback from 15 to 6 feet to allow construction of the driveway bridge.

ANALYSIS OF PLANNING COMMISSION ACTION

Single Family Design Review

Required Findings – The Belmont Zoning Ordinance requires that any new single family home and any significant change to an existing home) must be reviewed by the Planning Commission prior to construction. Section 13A of the ordinance provides the rationale for the required review:

13A.1 PURPOSE – The Single Family and Duplex Residential Design Review process is established to preserve the wooded, low density character of the City's single family and duplex residential neighborhoods, and assure that new single-family and duplex residential development achieves an appropriate balance amount the following:

- (a) Consistency with existing site conditions*
- (b) Minimal disruption of site and surrounding topography*
- (c) Minimal visual building bulk and an attractive exterior building design*
- (d) Protection against erosion, ground movement, flooding and other hazards*
- (e) Preservation of existing trees and vegetation, use of native plants, and an enhancement of the overall landscaping in residential neighborhoods*
- (f) Safe on-site vehicular accessways to all covered parking*
- (g) Retaining walls that follow topographic conditions and enhance the appearance of surrounding slopes*
- (h) Right-of-way encroachments that are the minimum necessary to support private access and development and that enhance the overall appearance of the site*

In rendering its decision pursuant to Section 13.A, the Planning Commission must consider all testimony offered and grant design review when it finds evidence to support all required findings of Section 13A.5 of the Zoning Ordinance. Section 13A.5 reads as follows:

13A.5 FINDINGS REQUIRED – The Commission may grant approval of Single Family and Duplex Residential Design Review to the proposed development, as applied for, or in modified form, if on the basis of the application and evidence submitted the following findings are made:

- (a) The Buildings and structures shown on the site plan are located to be consistent with the character of existing development on the site and in the neighborhood, as defined; minimize disruptions of existing public views; protect the profile of prominent ridgelines.*
- (b) The overall site and building plans achieve an acceptable balance amount the following factors:*
 - (1) building bulk,*
 - (2) grading, including*
 - (a) disturbed surface area and*
 - (b) total cubic yards, cut and fill*
 - (3) hardscape, and*
 - (4) tree removal*

- (c) *All accessways shown on the site plan and on the topographic map are arranged to provide safe vehicular and pedestrian access to all buildings and structures.*
- (d) *All proposed grading and site preparation have been adequately reviewed to protect against site stability and ground movement hazards, erosion and flooding potential, and habitat and stream degradation.*
- (e) *All accessory and support features, including driveway and parking surfaces, underfloor areas, retaining walls, utility services and other accessory structures are integrated into the overall project design.*
- (f) *The landscape plan incorporates:*
 - (1) *Native plants appropriate to the site's environmental setting and microclimate, and*
 - (2) *Appropriate landscape screening of accessory and support structures, and*
 - (3) *Replacement trees in sufficient quantity to comply with the standards of Section 25 (Trees) of the Belmont City Code*
- (g) *Adequate measures have been developed for construction-related impacts, such as haul routes, material storage, erosion control, tree protection, waste recycling and disposal, and other potential hazards.*
- (h) *Structural encroachments into the public right-of-way associated with the project comply with the standards of Section 22, Article 1 (Encroachments) of the Belmont City Code*

Planning Commission Action (Single Family Design Review) – At the conclusion of the public hearing, the Planning Commission determined that it could not make all of the findings required by Section 13A.5. A transcript of the Planning Commission hearing is attached for the Council's review. As indicated in Planning Commission Resolution 2004-36, findings (a), (b) and (c) could not be made for design review approval of the dwelling. The Resolution provides addressed finding (a), as follows:

The proposed project does not minimize disruptions of existing public views or protect the profile of a prominent ridgeline and further, that the proposed single-family residence would not comply with Section 4.3 of the Downtown Specific Plan (Urban Design Goal and Concept Plan), which describes the vision for the future downtown image and character. Section 4.3.1 Overall Urban Design Goal and Objectives provides:

Goal:

The downtown should form a visually distinct urban district which retains the inherent qualities of scale and character of Belmont, as well as major vistas of the surrounding hills which serve as the inspiration for the Belmont name. An attractive, visually cohesive appearance should express a sense of vitality and provide a focal point for public activity and a community lifestyle.

The Urban Design Concept Plan Section 4.3.2.1 provides:

The Urban Design Concept Plan describes the vision for the future downtown image and character which underlines the specific objective and policy sections dealing with streetscape, architectural and site development elements. The following primary principles of Belmont's urban form and appearance describe the Plan:

1. **Downtown Hillside Backdrop.** The unique semi-bowl shaped backdrop of hills and woodland vegetation visually contains and distinguishes the western portion of the downtown. By enhancing, strengthening and expanding the woodland vegetation in this area, this historic quality can contour to enhance the downtown.

The proposed project, located within the Downtown Specific Plan area, is part of the "Downtown Hillside Backdrop" area; which comprises the above-referenced unique semi-bowl shaped backdrop of hills and woodland vegetation which visually contains and distinguishes the western portion of the downtown. The Commission finds the proposed project fails to achieve the goals expressed in both Section 4.3.1 and 4.3.2 because it would introduce a large building mass, which draws attention away from the surrounding vegetated hillside. In addition, the proposed project would disrupt the public view of major vistas of surrounding hills and this important semi-bowl shaped hillside which is visually prominent to the west from the downtown. The Commission further finds the proposed project fails to minimize disruption to existing public views of the downtown, the bay to the east and the East Bay Hills from South Road. The project, as proposed, would therefore result in a diminished sense of the woodland character of this area.

The Planning Commission further finds that the project is not consistent with the character of the existing neighborhood or in compliance with the applicable sections of the Downtown Specific Plan Urban Design Goal and Concept Plan.

Subsection 4.3.1.3 Architectural Theme and Appearance Objective or 4.6 Architectural Theme Objectives...”, which provide:

4.3.1.3 Architectural Theme and Appearance Objective:

A distinct architectural image for the downtown should be based on a mixed theme of building styles derived from the architectural heritage of Downtown Belmont. Creative architectural design should be encouraged to utilize historic forms in innovative and attractive ways.

4.6.1 Historic Architectural Theme Zone Policies. The Historic Architectural Theme Zone is established to govern the architectural style of commercial, office, residential and institutional buildings. The limits of this zone are shown in Figure 4.4. This architectural theme is intended to identify Downtown Belmont by creating and maintaining a cohesive architectural image, which reflects the heritage of Belmont and the types of buildings that are currently being built within the downtown. Theme zone standards are devised to ensure compatibility and united yet diverse, building forms and styles. The historic theme is associated with, and intended to augment established styles in the downtown area such as Italianate, Shingle, Craftsman, Spanish Colonial Revival, Late Victorian, Edwardian and Bungalow styles. Each of these styles has characteristic features associated with the detailing and ornamentation of roofs, eaves, facades, columns, windows and doors and distinct relationships between the building and the ground plane. Innovative interpretations of historical styles and incorporation of "sustainable design" principles are encouraged within the context of the Historic Architectural Theme Zone.

4.6.2 Historical Architecture Theme Zone. The architectural style of the Historic Architectural Theme Zone is based upon traditional building elements, proportions and construction techniques. The buildings will reflect the detailing and craftsmanship of American architecture between 1880-1930. The building facades may be finished in wood, cement plaster, masonry or a combination of these

materials. The building shall be articulated to reflect the traditional development patterns of twenty-five to fifty foot wide lots within the downtown area. The overall goal of the design guidelines is to create buildings whose proportions rhythms and details are based on traditional American architectural styles. These buildings need not be direct imitations of these styles, but their architectural elements and devices must respect the proportions craftsmanship and materials of historical buildings.

The project as proposed fails to advance the above-referenced goals in the Downtown Specific Plan because it lacks a cohesive architectural image. The proposed project contains a mix of Italianate, Rancher, and Victorian as proposed design elements. The proposed project's foregoing mix of styles is evidenced by a mixture of shuttered windows, Italianate eaves, and Victorian decks. A single design theme, as required by the Downtown Specific Plan to achieve a "cohesive architectural image," would be more appropriate for the site. Additionally, the structure's design of large building volumes finished with surface decorations from several different design palettes would result in a dwelling, which does not blend with the wooded character of the site and fails to satisfy the criteria of the Downtown Specific Plan. Therefore, this finding cannot be made in the affirmative.

The Planning Commission resolution addressed finding (b), as follows:

The Planning Commission finds that the overall site and building plans do not achieve an acceptable balance among the factors enumerated in Section 13(a)(5)(b) because of the bulk of the proposed project.

Specifically, as discussed above, the proposed building design is not appropriate for the site because its design elements create a bulky and boxy appearance. Additionally, it does not take full advantage of the site so as to blend into the site. A lower building profile, varied or stepped massing, integrated architecture and enhanced roof articulation for the east face of the structure would be a more appropriate approach to designing a house of this size. The Commission finds the design and location of the dwelling as proposed results in a structure "imposed" on the site rather than becoming part of and blending with the site.

Finally, the Planning Commission Resolution addressed finding (c), as follows:

The proposed driveway bridge/deck do not provide safe vehicular access because the location, length, and steepness of the proposed driveway bridge will create adverse safety and visibility conditions for pedestrians and vehicle traffic along

*this portion of South Road which is steep, narrow and contains hairpin curves.
Therefore, this finding cannot be made in the affirmative.*

Variance

Nature and Purpose – A variance is a permit to construct a structure not otherwise permitted under the zoning regulations. Variances can only be granted to authorize a use or activity that is otherwise expressly authorized by the zoning regulations applicable to the parcel (Government Code Section 65906). Variances authorize deviations from regulations applicable to such physical standards as lot sizes, floor area ratios for buildings, and off-street parking requirements. As a result of granting a variance, basic zoning provisions are not being changed but the property owner is allowed to use his property in a manner basically consistent with the established regulations with minor deviations that place him in parity with other property owners in the same zone. Variances are, in effect, constitutional safety valves to permit administrative adjustments when a general regulation would be confiscatory or produce unique hardship. As indicated by the court in Hamilton v. Board of Supervisors (1969) 269 Cal.App.2d 64, 66, 75 Cal.Rptr. 106 as follows:

“They [variances] exist because it is recognized that, within a zone, there will be individual lots or tracts that, because of peculiar shape, unusual topography, or some similar peculiarity, cannot be put to productive use if all the detailed requirements for that zone are to be strictly applied. Hence administrative and quasi-judicial procedures are established, whereby the owner of such a piece of land may be allowed relatively minor variations from the strict letter of the law. Typical of such variations are those relating to setback lines, proportion of building size to lot area, and similar deviations. The concept is that the basic zoning provision is not being changed but that the owner of the individualized lot is allowed to use it, in a manner basically consistent with the established zone, but with such minor variations as will put him on a par with other property owners in the same zone whose lots conform in size, shape, topography, etc., to the overall pattern envisaged by the zoning ordinance. The procedures are created to bring the applicant to a substantial parity with other owners in the zone in devoting his property to the basic function of that zone; they are not created to give the applicant a better position than that enjoyed by his neighbors in the zone.”

Statutory Standards – State law provides statutory standards for the granting of variances. Variances can be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity, under an identical zoning classification. Any variance granted must be subject to conditions to assure that the adjustment authorized does not constitute a grant of special privilege inconsistent with the

limitations upon other properties in the vicinity and zone where the property is located. A variance cannot be granted to authorize a use or activity that is not otherwise expressly authorized by the zoning regulations applicable to the parcel (Government Code Section 65906).

Supplementary Local Ordinance Provisions – The statutory standards contained in Government Code Section 65906 may be supplemented by harmonious local ordinances because state planning and zoning law is intended to provide minimum limitations -Topanga Assn. For a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 511, note 6, 113 Cal.Rptr. 836.

Most local zoning ordinances incorporate the variance standards in Government Code Section 65906. And since California cities and counties granted variances long before there was any provision for them in the state statutes, some ordinances provide criteria and standards in addition to those contained in Government Code Section 65906. For example, some local ordinances provide that a variance may be granted only if it is compatible or consistent with the adopted general plan and/or the purposes and intent of the comprehensive zoning ordinance. Where local ordinance standards are adopted, they must be consistent with Government Code Section 65906. If local ordinances are consistent with state law, both state and local criteria must be satisfied to justify the grant of variance - Topanga Assn. For a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 518, note 18, 113 Cal.Rptr. 836.

Belmont's Ordinances Regarding Variances – Belmont Zoning Ordinance Section 14 provides:

SECTION 14 – VARIANCES

- 14.1 *PURPOSE – The hearing body may grant variances to any and all site development standards to prevent or lessen practical difficulties and unnecessary physical hardships inconsistent with the objectives of the Zoning Ordinance which may result, under specific circumstances, from the strict or literal interpretations of the regulations prescribed therein. The hearing body shall review all requests to variances to site development standards in excess of 10 percent of said standard(s). The Director of Community Development may administratively grant Exceptions to commercial and manufacturing site development standards up to an including 10 percent relief of said standard(s) as prescribed by Section 14.9 herein.*
- 14.5 *ACTION BY THE COMMISSION – The Commission shall receive, investigate, hear and take action upon every application for a Variance which is submitted in full accordance with the procedures set forth in Section 14.2 herein.*

In rendering its decision pursuant to Section 14.5, the Planning Commission must consider all testimony offered and grant a variance only when it finds evidence to support all required variance findings of Section 14.5.1 of the Zoning Ordinance. Section 14.5.1 reads as follows:

- (a) *The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Zoning Plan.*
- (b) *There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.*
- (c) *The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.*
- (d) *The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.*
- (e) *The granting of the Variance will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity.*

Each of these findings must be made in the affirmative if the variance is to be granted.

Planning Commission Action (Variance) – At the conclusion of the public hearing, the Planning Commission determined that it could not make all of the findings required by Section 14.5.1. A transcript of the Planning Commission hearing is attached for the Council’s review. As indicated in Planning Commission Resolution 2004-36, finding (e) could not be made for a front setback Variance for the driveway bridge. The Resolution provides as follows:

The granting of the Variance to Section 9.7.1(b) of the Belmont Zoning Ordinance to allow the proposed driveway bridge/deck would be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity because the location, length, and steepness of the proposed driveway bridge will create adverse safety and visibility conditions for pedestrians and vehicle traffic along this portion of South Road which is steep, narrow and contains hairpin curves. Therefore, this finding cannot be made in the affirmative.

ANALYSIS OF APPEAL

Belmont’s Ordinance Regarding Appeals – The Belmont Zoning Ordinance address appeals in Section 15, as follows:

SECTION 15 – APPEALS

15.10 ACTION BY COUNCIL – The Council shall hold a public hearing on an Appeal from a decision of the Commission or a review of proceedings upon its own initiation after notice thereof shall have been given as prescribed herein.

All evidence submitted at such hearing, except original public records or certified copies thereof, may be given under oath administered by the Mayor or the Vice Mayor.

The Council may affirm, reverse or modify a decision of the Commission provided that if a decision for denial is reversed or a decision to grant is modified, the Council shall, on the basis of the record transmitted by the Zoning Administrator and such additional evidence as may be submitted, make the findings prerequisite to the granting prescribed in this Ordinance.

The City Council is now required to conduct a public hearing on the Graves’ appeal. Attached to this staff report are the materials reviewed by the Planning Commission, the transcript of the Planning Commission hearing, minutes of the Planning Commission hearing, the Planning Commission Resolution denying the variance, and Mr. Graves’ appeal. The City Council, during its public hearing, is required to receive and consider those materials and any additional evidence submitted prior to the conclusion of the Council’s public hearing.

Appeal Analysis – Staff has reviewed Mr. Graves’ appeal letter of July 30, 2004. Five points are raised as the basis for the appeal; the first, second, fourth and fifth points address Single Family Design Review, and the second and third points address the Variance.¹ In addition, the appellant has submitted new exterior elevations of the proposed dwelling for Council consideration. Staff has evaluated the appellant’s arguments and revised drawings, and provides the following responses, beginning with **Single Family Design Review**:

Appellant: *1. The majority of the Commissioners erred in rejecting the design features that minimize site impact, as required by Zoning Code § 13A.5*

¹ The second point of the appellant’s appeal addresses driveway safety, which is treated by the Commission in both finding 13A.5(c) of Single Family Design Review and finding 14.5.1(e) of the Variance. The Commission’s stated reasons for these two findings are identical, and staff has treated the appellant’s second point in the discussion of the Variance finding.

(b), while advocating features that would aggravate site impact (3.g., more grading, more cut/fill, more tree removal).

Response: The Commission indicated in its discussion of finding 13A.5(b) that the project did not achieve an acceptable balance among four factors (bulk, grading, hardscape and tree removal) because the building was too bulky. The Commission noted that “...a lower building profile, varied or stepped massing, integrate architecture and enhanced roof articulation...” would improve a house of this size. Further, the Commission noted that the current design appeared to be “imposed” on the site rather than blending with it.

Staff believes that this finding requires that a variety of features and conditions be considered to help determine if a particular project has made the best choices among the four factors. Balancing implies trade-offs, and the Commission concluded that the building’s bulk was too excessive, given the other choices regarding grading, hardscape and tree removal. However, this does not suggest that more grading or tree removal must occur to reduce bulk. The site is acknowledged to be a challenging one, characterized by steep slopes, narrow lot depth and constrained access. The Commission did not suggest that more grading should occur, or that removing additional trees through re-siting the building would improve the balance. It does seem clear that *given the size of the proposed dwelling*, an acceptable balance among the factors has not been achieved. The Commission further suggested several design changes that could reduce the bulky appearance, without exacerbating the other factors. Staff believes that the project could achieve a better balance than presently shown.

Appellant: 4. *In evaluating the visual impact of the project, the majority of Commissioners ignored the definition of “public views” which, as the Staff noted, has emerged from reviews of projects since 1999. To “hide” the building, as the majority advocated, would aggravate the impact of the project on the site by necessitating more grading, more cut/fill, and more tree removal.*

Response: The Planning Commission identified the public view from which this project is visible as the “semi-bowl shaped hillside” which is identified in the Downtown Specific Plan as important for containing and distinguishing the western portion of the downtown. Staff believes the Commission did not ignore any definition of “public views” but correctly referred to the Downtown Specific Plan for guidance in evaluating the project’s impact on public views. Further, the Commission did not advocate, “...more grading, more cut/fill, and more tree removal” to reduce the bulk, but suggested design options that would break up or modify the exterior mass of the structure. The Commission concluded that the current design would introduce a large building mass, whereas, surrounding buildings have significant design enhancements to break up visible mass and bring the built environment into greater harmony with the wooded hillsides. Staff believes that the Commission satisfactorily defined and addressed “public views” in its review of the project.

Appellant: 5. *In evaluating “bulk”, the majority of Commissioners ignored the governing standards; that is, floor area ratio and height limitations, both of which the project satisfies.*

Response: Staff believes that floor area ratio and height limitations are not the sole determinants of bulk. Taken together, these two measurements do yield the volume of a building; however, there are additional factors that transform volume into excessive bulk, including lot characteristics (size, shape, slope), trees and other landscaping, surrounding development, building architecture, and public views. The Planning Commission identified a number of these factors in its decision. Staff believes that the Commission adequately addressed the bulk of the building in its findings.

In summary, staff believes that adequate evidence exists to support the findings made by the Planning Commission in denying the Single Family Design Review. As a result, staff recommends that the Council deny the appeal of the Commission’s action on design review.

Staff’s responses to the appellant’s point regarding the **variance** are as follows:

Appellant: 2. *The majority of Commissioners rejected the variance for the driveway structure, purportedly on safety ground, but contrary to the Staff’s analysis and the views of the Public Works Department, and in accordance with no articulated standard.*

Response: The Planning Commission on several occasions during its review of the project discussed the issue of safe vehicular access. Testimony from neighbors identified South Road as a narrow and winding local street that carries a significant volume of traffic, which at times operates at relatively high speeds. The Commission was concerned that an additional driveway curb cut on South Road would make an already tenuous traffic condition unacceptably worse, and it employed this rationale in determining that findings for both the variance and single family design review could not be met.

The appellant correctly states that the City staff, including Public Works staff, did not identify the driveway design as a safety concern, and that no specific standard was articulated by the Commission. However, the neighbors’ testimony and the Commission’s own observations and experience were persuasive to a majority of the Commission to reach a negative conclusion about the safety of the design and location of the driveway.

Staff notes that the testimony and experience of the neighbors and the Commission regarding traffic safety on South Road are not sufficient basis to reject *all* access to the site. If the site is so unsafe that no access is possible, more evidence must be provided. Absent additional evidence, staff believes that a driveway adequate for safe access to South Road could be designed.

Appellant: 3. *In rejecting the variance for the driveway structure, the majority of Commissioners disregarded their own prior direction to the applicants to minimize grading and their own prior tacit approval of the applicants' solution, which was the driveway structure.*

Response: The Commission's decision to reject the driveway bridge / deck followed its discussions of two other options: A driveway supported by retaining walls (in lieu of a bridge) in the same location as the proposed bridge / deck, and a longer driveway running parallel to the street that might include a turn-around area.² Both required additional grading, with the longer parallel driveway also yielding very high retaining walls and forcing the location of the house closer to the Belmont Vista senior housing complex.

As an existing legal lot, the site must have vehicular access to meet the on-site parking requirement. The street frontage on South Road is the only means of providing such access. Staff believes that the slope of the site at the street frontage necessitates some kind of structure in the required front yard to allow vehicular access. While there are several driveway options, any of them would seem to require a variance and all would appear to generate the same street access conditions.

Absent additional evidence presented to the City Council in the appeal hearing regarding the safety of vehicular access at the site, staff recommends that the Council uphold the appeal based on the findings of the previous staff analysis and overturn the Commission's denial of the variance, subject to further Design Review of the driveway structure.

In response to the applicant's **revised elevation drawings**, staff believes the revised elevations bring the project into greater conformance with the required findings for Single Family Design Review and the Downtown Specific Plan goals and policies identified above, and more successfully address the issue of balancing bulk with grading, hardscape and tree removal. The overall building size and shape remain as before, but revised rooflines, heavier bracketing, redesigned windows, increased detailing of columns further distinguish the building. Staff believes that the findings for Single Family Design Review can be made for the revised elevations, and the applicant requests the Council's determination in this regard. However, it has been the Council's practice to refer new information to the Planning Commission for review, comment and action. Staff believes that referral of the Single Family Design Review portion of this project is an appropriate response to the appeal request, in conjunction with the recommended

² On July 1, 2003, the Commission reviewed a previous proposal for the site and rejected a driveway design that was essentially the present driveway, but was supported on fill contained by retaining walls, instead of by a bridge / deck. The Commission directed the applicant to redesign the driveway in response to neighbor objections to the retaining walls. On April 6, 2004, in reviewing the proposed bridge / deck, the Commission discussed the longer driveway option. Some Commissioners identified that option as requiring significantly more grading and higher retaining walls. No specific direction was provided on that option.

approval of a front setback variance.

Summary

Staff believes that the Appellant has not given the City Council sufficient basis to overturn the Planning Commission's decision to deny Single Family Design Review. The Commission adequately addressed the issues of "public views", "bulk" and "balance" in its consideration of the findings. However, the appellant has submitted to the Council revised elevations that address a number of design concerns related to view impacts, building bulk and the balancing among design factors. Staff's recommendation reflects the Council's practice of referring new information back to the Planning Commission

Staff remains concerned that the denial of the requested variance does not resolve the problem of how vehicular access is achieved. In reviewing the site conditions, it appears that some kind of relief from the front yard setback requirement is necessary to provide vehicular access. Further, staff believes that the proposed location and general configuration of the driveway bridge / deck is one of the least, if not the least difficult way to provide access. While the design of the driveway bridge / deck may need work, its location appears to be the most appropriate solution to the site condition of this property.

Fiscal Impact

None.

Recommendation

Staff recommends that the Council:

1. Continue the appeal on the Single Family Design Review and return the project to the Planning Commission for review and action, and
2. Grant the appeal (and reverse the Planning Commission) on the Variance, subject to Single Family Design Review approval.

Public Contact

Appellant was informed of the appeal hearing and public notice was provided, as required by Ordinance.

Attachments

1. Appeal Application / 905 South Road, July 30, 2004
2. Planning Commission Resolution 2004-36

3. Planning Commission Memo, July 20, 2004
4. Written Statement presented to Planning Commission by Mr. Graves, July 20, 2004
5. Planning Commission Meeting Verbatim Transcript, June 15, 2004 (excerpt)
6. Planning Commission Staff Report, June 15, 2004
7. Planning Commission Meeting Minutes, May 4, 2004
8. Planning Commission Memo, May 4, 2004
9. Planning Commission Meeting Verbatim Transcript, April 4, 2004 (excerpt)
10. Planning Commission Staff Report, April 4, 2004 (w/ attachments)
11. Project Plans and Specifications / 905 South Road (City Council only)

Respectfully submitted,

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